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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,734	02/28/2005	Shintarou Mikami	FP3002-0035	2556

39083 7590 04/09/2007
CERMAK & KENEALY, LLP
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EXAMINER

BUMGARNER, MELBA N

ART UNIT	PAPER NUMBER
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3732

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/525,734

Applicant(s)

MIKAMI ET AL.

Examiner

Melba Bumgarner

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/20/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “39” has been used to designate both “a shaft elastic portion” and “the shaft light transmitting portion” and further figure 14 shows neither for “39”; reference character “43” has been used to designate both “inwardly projecting ribs” and “the inner core”.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: “125”.

2. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add or correct the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 6, and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Criscio, Jr. (5,813,855) in view of Kuo (6,599,048). Criscio, Jr. discloses a toothbrush 10 comprising a head portion 16 with a brush portion located on a surface, a toothbrush body 14, and a shaft 12 that connects the head portion and the body, the body being provided with light emitting means to irradiate light toward the head portion, the shaft being structure to permit the light to transmit therethrough, a tip end of the head portion provided with a tip-end light transmitting portion; however, Criscio, Jr. does not show a surface of the head portion including an elastic portion. Kuo teaches a toothbrush having at least a surface of the head portion including an elastic portion 5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the toothbrush of Criscio, Jr. with the elastic portion of Kuo in order to provide a barrier between the bristles and the gums during brushing in view of Kuo. The surface of the head portion on which the brush portion is provided does not include the elastic portion and is thereby formed with a brush portion light transmitting portion and a surface opposed to the surface, the head portion includes sides that have outer peripheries and the elastic portion is formed on a part of the peripheries of the sides and in a substantially central region of the opposed surface. It would have been an obvious matter of choice to one of ordinary skill in the art as to the curvature of the back surface light transmitting portion at the periphery. The surfaces of the elastic portion of Kuo would project from the surfaces of the head portion. It would have been an obvious matter of choice to one of ordinary skill in the art as to whether the thermoplastic elastomer material of Kuo is transparent or not.

5. Claims 1, 5, 6, 10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Criscio, Jr. (5,813,855) in view of Raven et al. (5,991,959). Criscio, Jr. discloses a toothbrush 10

comprising a head portion 16 with a brush portion located on a surface, a toothbrush body 14, and a shaft 12 that connects the head portion and the body, the body being provided with light emitting means to irradiate light toward the head portion, the shaft being structure to permit the light to transmit therethrough, a tip end of the head portion provided with a tip-end light transmitting portion; however, Criscio, Jr. does not show a surface of the head portion including an elastic portion. Raven et al. teach a toothbrush having at least a surface of the head portion including an elastic portion 6. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the toothbrush of Criscio, Jr. with the elastic portion of Raven et al. in order to prevent damage of the teeth or surrounding soft tissue due to excessive force or brushing frequency in view of Raven et al. Raven et al. show an embodiment having the elastic portion includes a shaft elastic body on the shaft in the vicinity of the head portion (figure 16). The elastic portion of the shaft on Criscio, Jr. would provide a surface of the shaft that does not include the shaft elastic body and is thereby provided with a shaft light transmitting portion.

6. Claims 7-9 and 15-17 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Criscio, Jr. in view of Kuo and further in view of Raven et al. The modified toothbrush of Criscio, Jr. and Kuo shows the limitations as described above; however, they do not show the elastic portion including a shaft elastic body on the shaft. Raven et al. show an embodiment having the elastic portion includes a shaft elastic body on the shaft in the vicinity of the head portion (figure 16). It would have been obvious to one having ordinary skill in the art to further modify the toothbrush to have the shaft elastic body in order to further encase portion of the shaft with elastic material and further prevent damage of teeth and soft tissue.

Conclusion

7. Any inquiry concerning this communication from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriquez can be reached at 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Melba Bumgarner
Primary Examiner